

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

tmd3574/mrm  
January 3, 2019  
09:30 AM

=====X  
IN RE:

Case No. 818-77650-AST

RAYMOND J. CASSIDY,

Hon. ALAN S. TRUST

**NOTICE OF MOTION**

Debtor.  
=====X

PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Hon. Alan S. Trust, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 290 Federal Plaza, Room 963, Central Islip, New York, 11722, on January 3, 2019 at 09:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
December 14, 2018

/s/ Marianne DeRosa  
MARIANNE DeROSA, TRUSTEE  
125 JERICHO TURNPIKE; STE 105  
JERICHO, NY 11753  
(516) 622-1340

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IN RE:

Case No: 818-77650-AST

RAYMOND J. CASSIDY,

Hon. ALAN S. TRUST

**APPLICATION**

Debtor.

=====X

TO THE HONORABLE ALAN S. TRUST U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on November 13, 2018, and, thereafter, MARIANNE DEROSA was duly appointed and qualified as Trustee.

2. The Debtor's proposed Chapter 13 Plan (hereinafter referred to as "the Plan") is dated October 22, 2018 and provides for payments in the amount of \$1,645.00 per month for a period of sixty months.

3. The Plan also provides that the Debtor's pre-petition mortgage arrears owed to Embrace Home Loans, secured by the real property located at 17 Foxcroft Street, Mastic, NY will be capitalized pursuant to a loan modification agreement.

4. Pursuant to United States Bankruptcy Court for the Eastern District of New York for the Eastern District of New York General Order No. 543 as amended by General Order No. 582, this Court does not participate in the Loss Mitigation Program.

5. As such, the Trustee objects to the confirmation of the Plan because the Plan is not adequately funded to provide for full repayment to all secured creditors as required by 11 U.S.C § 1325(a)(5).

6. Furthermore, the Debtor has failed to commence making Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. § 1326(a)(1).

7. The Debtor's failure to provide these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

8. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: Jericho, New York  
December 14, 2018

s/Marianne DeRosa  
Marianne DeRosa  
Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Case No: 818-77650-AST

IN RE:

RAYMOND J. CASSIDY,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

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This is to certify that I, Matthew R. Matz, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

RAYMOND J. CASSIDY  
17 FOXCRAFT STREET  
MASTIC, NY 11950

RICHARD L STERN, PC  
ATTN: COOPER J MACCO, ESQ.  
2950 EXPRESS DRIVE SOUTH, STE 109  
ISLANDIA, NY 11749

ROUNDPOINT MORTGAGE SERVICING  
SCHILLER, KNAPP, LEFKOWITZ & HERTZEL LLP  
950 NEW LOUDON SUITE 109  
LATHAM, NY 12110

This December 14, 2018

/s/Matthew R. Matz  
Matthew R. Matz, Paralegal  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
125 Jericho Turnpike; Suite 105  
Jericho, NY 11753  
(516) 622-1340

CASE NO: 818-77650-AST  
Hon. ALAN S. TRUST

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

RAYMOND J. CASSIDY,

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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MARIANNE DeROSA, TRUSTEE  
125 JERICHO TURNPIKE; SUITE 105  
JERICHO, NY 11753  
(516) 622-1340